

From:Eng Michael [<mailto:mikeeng@mac.com>]

Sent: Thursday, February 23, 2017 6:04 PM

To: Montoya, Tom -FS <tmontoya@fs.fed.us>

Cc: Stein, Kris -FS <krisstein@fs.fed.us>; Pence, Sitka - FS <sitkapence@fs.fed.us>; FS-PNW Regional Forester <PNWRegionalForester@fs.fed.us>

Subject: Re: Collaboration in NEPA for the "Lostine Corridor Public Safety Project"

Dear Tom,

Thank you for reaching out to me and explaining your understanding of the requirement that a project "be developed through a collaborative process" in order to utilize the Categorical Exclusion authority provided by HFRA, Section 603.

Unfortunately, by your indication that the Lostine Corridor Project was guided by Section 603 (C)(i) and (ii)(i), it appears that you have focused primarily on trying to apply the clarifying stipulated modifiers to the term "collaborative process", but failed to establish and implement the essential underlying requirement that the project be developed through a "collaborative process."

I do believe your staff did endeavor, in good faith, to involve multiple interested persons and that this outreach effort was nonexclusive.

However, your staff did not incorporate essential elements that are necessary to constitute a "collaborative process." You do not have a collaborative process unless the multiple interested parties who are participating are actually "representing" diverse interests, rather than being merely "representative of" diverse interests. The most fundamental element of a "collaborative process" is that the participants actually **work together** as a group to design, implement and monitor a project aimed at achieving shared goals.

Clearly, there was no "working together" aspect involved in the development of this project. Instead, your staff utilized a "public involvement" process, not a "collaborative" process. This chosen approach also resulted in a process that was not "transparent", as required by Section 603(C)(i)(ii)(i).

Please see the attached graphic that describes the spectrum of public participation. It provides essential distinguishing characteristics between a process whose goal is to "Involve" the public and a process whose goal is to "Collaborate" with the public.

You can still utilize differing levels of collaboration. For instance, as you pointed out, a collaborative process does not necessarily require that the the process utilize a formally established collaborative group, such as a RAC. Furthermore, not all collaborative processes require consensus in formulating advice and recommendations, or in formulating jointly developed solutions to an identified problem.

If you think you would seriously consider revising the public involvement process utilized to date and transition it to a collaborative process that would unquestionably address the Section 603 CE requirements, I would be willing to meet with you and your staff to discuss further and to outline some of the steps that may be required to accomplish this, along with estimated

timelines. Following that discussion, if you would like to proceed in establishing a collaborative process, building on the very useful public involvement efforts and analyses your staff has already conducted, and you are fully committed to actively support the collaborative process, I would be willing to offer you my considerable experience in designing, convening and conducting collaborative processes to assist you with this project - or refer you to other individuals with this kind of expertise.

Take care.

Sincerely,
Mike Eng

On Feb 23, 2017, at 2:04 PM, Montoya, Tom -FS <tmontoya@fs.fed.us> wrote:

Michael: Great connecting with and Thank you for sharing this information on collaboration, it left me wondering if maybe the guidance provide to the Forest Service under the 2014 Farm Bill on collaboration may be causing some confusion with the publics we have engaged on the Lostine Project? I say that because we have a formal collaborative on the Wallowa-Whitman Forest that has been used for some of our larger vegetation projects. That formal process follows much the guidance that is outlined in the CEQ documents you provided as that formal collaborative group does work toward development of a consensus document. This formal collaborative process however not what is necessary for projects such as the Lostine Project, but may be what our publics are use to in application of collaboration. Also, under the 2014 Farm Bill the FS has been given some further guidance on how collaboration is to proceed in order to facilitate addressing the forest health issues under this Act. The following is that guidance:

The Responsible Official designed and applied a collaborative process that includes multiple interested persons representing diverse interests and is transparent and non-exclusive, as required by the Healthy Forest Restoration Act, Section 603(b)(1)(C)(i) and (ii)(I).

Guidance For the Healthy Forest Restoration Act

The 2014 Healthy Forest Restoration Act, Section 603(b)(1)(C)(i) and (ii)(I), also referred to as the "Farm Bill", established that projects analyzed under the authority for categorical exclusions (CEs) apply a collaborative process through the planning efforts. The Act states that the collaborative process be as follows:

- (i) Includes multiple interested persons representing diverse interests; and
- (ii) (i) is transparent and nonexclusive; or
- (ii) Meets the requirements for a resource advisory committee under subsections (c) through (f) of section 205 of the Secure Rural Schools and Community Self-Determination Act of 2000 (16 U.S.C. 7125)

The process as applied to the Lostine Project has been guided by (i) and (ii)(i).

Forest Service Guidance on Process

Current agency guidance on the process to use on Farm Bill projects comes from “*RI Collaboration and Discussion Handout*”, dated Feb 2015). This guidance provides aspects of collaboration to consider in designing the process under the 2015 Farm Bill, and clarifies that:

- Work with a formal collaborative group is ***not necessary*** to meet the requirements of the Act
- Recognize from the beginning that because this is a collaborative process (not a formal collaborative group), the responsible official is ***not looking for consensus***. The responsible official will equitably value insights from each participating individual and organization and ***will not rely solely on any single individual or group perspective*** when making decisions for the project.

So, Michael I would like to get your thoughts on this guidance and how the Forest has applied. As I believe the FS in respect to the Lostine Project has followed the process given to the agency in development of this collaborative project. Thanks

<image001.png> **Tom Montoya**
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Caring for the land and serving people

From: Eng Michael [<mailto:mikeeng@mac.com>]
Sent: Thursday, February 23, 2017 10:44 AM
To: Stein, Kris -FS <krisstein@fs.fed.us>
Cc: Pence, Sitka - FS <sitkapence@fs.fed.us>; Montoya, Tom -FS <tmontoya@fs.fed.us>; FS-PNW Regional Forester <PNWRegionalForester@fs.fed.us>
Subject: Collaboration in NEPA for the "Lostine Corridor Public Safety Project"
Importance: High

Dear Kris,

Thank you for considering my concerns about the process utilized and the NEPA procedures followed for the "Lostine Corridor Public Safety Project".

In case you are not familiar with these two documents, I am attaching:

- **“Collaboration in NEPA: A Handbook for NEPA Practitioners”**, Council on Environmental Quality (October 2007)
- **“Memorandum on Environmental Collaboration and Conflict Resolution”**, Office of Management and Budget and Council on Environmental Quality (September 2012)

These two documents provide direction and guidance for how federal agencies should be incorporating collaboration into their NEPA decision-making processes.

The OMB/CEQ memo directs all executive branch departments and agencies to increase the appropriate and effective use of collaboration in carrying out their responsibilities under their organic acts and enabling legislation, the National Environmental Policy Act (NEPA), and other laws in effect to manage and conserve our environment, natural resources, and public lands.

If the District has limited capacity for designing and conducting collaborative NEPA processes, I would be happy to assist you. In my previous position with the U.S. Institute for Environmental Conflict Resolution, I worked closely with CEQ in developing their handbook on “Collaboration in NEPA” and in providing CEQ-sponsored training to federal agency personnel on “Collaboration in NEPA”, as well as assisting a wide range of federal agencies in designing, convening, and facilitating collaborative NEPA processes.

Please feel free to contact me for additional information.

Thank you for your continued public service.

Sincerely,

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